



Judgment

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION (APL) NO. 529/2024

Vilas s/o Fakira Pitalewad,
aged about 29 yrs., Occ. Private,
R/o. Kasarbehla, P.O. Tenbhi,
Tal. Mahagaon, Dist. Yavatmal.

... **APPLICANT**

VERSUS

1. State of Maharashtra,
through Police Station Mahagaon,
Dist. Yavatmal.
2. XYZ, in Crime No.265/2016
through Police Station Mahagaon,
Dist. Yavatmal.

...**NON-APPLICANTS**

Mr. I. V. Tambe, Advocate for applicant.
Mr. A. Badar, APP for non-applicant No.1.
Ms. Sakshi Agrawal, Advocate for non-applicant No.2.

CORAM : VINAY JOSHI AND
MRS. VRUSHALI V. JOSHI, JJ.

DATE : 25.09.2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

2. **Admit.**

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3. This is an application seeking to quash criminal prosecution bearing Spl. (Child) Case No. 44/2016 arising out of crime No. 265/2016 for the offence punishable under Sections 376(2)(I)(N), 363, 366-A read with Section 34 of the Indian Penal Code, Section 4 of the Protection of Child from Sexual Offences Act, 2012.

4. The informant Janardan s/o Yadavrao Rajwade, father of victim aged 16 years alongwith victim are present before us. It is stated that the matter is settled out of the Court. Both have filed affidavit stating about settlement and their no objection. They have been identified by their counsel Ms. Sakshi Agrawal. It is submitted that the victim was at the verge of majority and at her instance, both applicant and victim eloped and then got married on 16.02.2020 for which the document have been produced on record. It is submitted that from marriage, they have a child aged three years. Unfortunately, marriage did not work as they have applied for mutual divorce, in which one of the term was for withdrawal of present prosecution. The informant and her daughter would submit that considering future of minor kid and marital prospects of victim, the prosecution may be quashed. It is informed that till date charges have not been framed.

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5. Though the offence is of serious nature, however it reveals that girl who was at the verge of majority took leading part and then both visited at different place. Not only that they have undergone marital ceremony but also had baby from relations. Since the matter is settled, there is every likelihood that the victim may not support, if the applicant is put on trial. Considering the peculiarity of the facts, we are inclined to exercise our inherent powers.

6. Though the co-accused is not before us, his role is limited of assisting the applicant No.1 in fleeing. Moreover, the informant and his daughter has no objection to quash the proceeding, therefore, we are inclined to quash the entire prosecution

7. In view of above, application is allowed. We hereby quash and set aside criminal prosecution bearing Spl. (Child) Case No. 44/2016 arising out of crime No. 265/2016 for the offence punishable under Sections 376(2)(I)(N), 363, 366-A read with Section 34 of the Indian Penal Code, Section 4 of the Protection of Child from Sexual Offences Act, 2012.

8. Application stands disposed of in above terms.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)